

ORIGINAL

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2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
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4 SSP CAPITAL PARTNERS, LLC,

5 Plaintiff,

6 - against - Case No.:
07 CV 3878 (NRB)

8 MANDALA LLC, HAROUST, LLC, HAMILTON GRANGE,
LLC, ARABARA, LLC and 316 SECOND AVENUE,
LLC.

9 Profoundly

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May 5, 2008

12

2:38 p.m.

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14 EXAMINATION BEFORE TRIAL of RICHARD
15 H. RUBIN, the Non-Party Witness herein,
16 taken by the Defendants, pursuant to
17 Notice, held at the offices of Rubin &
18 Licatesi, located at 591 Stewart Avenue,
19 Garden City, New York 11530, before Martha
20 Trikas, a Notary Public of the State of New
21 York.

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R. RUBIN

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2 me.

3 Q. What did he say to you, and what
4 did you say to him in that regard?

5 A. I don't know. We were talking
6 about the loan for a good period of time
7 together.

8 Q. Okay.

9 A. Exchanging documents, exchanging
10 correspondence.

11 Q. Did Mr. Kaplan ever receive
12 proposed loan documents from you?

13 A. I believe so, yes.

14 Q. Do you know whether he did?

15 A. I think I sent it to them. I
16 think we spoke about them.

17 Q. Well, is it possible for you to
18 be certain as to whether you sent him
19 proposed loan documents from the file that's
20 in front of you today?

21 A. I could probably do so, yes.

22 Q. Good. I'll let you do that, if
23 you would be so kind.

24 A. Again, we are under a couple of
25 time constraints because of the time that we

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R. RUBIN

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2 lender at or about March six, 2007?

3 A. And prior to that as well. For
4 a period of time prior to that as well. But
5 I don't remember exactly. The conversation
6 did come up, probably came up with Mike
7 Gordon also.

8 Q. Did you ever speak with
9 Mr. Denderian?

10 A. No.

11 Q. Ever?

12 A. He may have called me once
13 pressing for a closing, and I reminded him
14 that he should be speaking with his
15 attorney.

16 Q. Do you know whether any proposed
17 closing documents were ever sent directly to
18 Mr. Denderian by your office?

19 A. I don't believe that that would
20 have been my practice. I think all of my
21 correspondence was with Mr. -- I do remember
22 my correspondence with Mr. Kaplan --

23 Q. Was a closing date ever set?

24 A. No.

25 Q. -- in this matter.

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R. RUBIN

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Not to my recollection.

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Q. Do you know whether the --

4

A. Well, let me take it back. I'd have to check my book for 2007. I don't remember if we had scheduled it or if we hadn't.

8

Q. Well, let's leave a space.

9

A. Okay.

10

Q. Please check your book and let us know whether you scheduled it.

12

A. That's fine.

13

Q. If you did schedule it, please provide us with a copy --

15

A. Okay.

16

Q. -- of the book and any correspondence of and/or any communications that you may have transmitted to Mr. Denderian or to Mr. Kaplan letting them know of the scheduled closing date.

21

A. Okay.

22

(INSERT) Nothing scheduled now ²⁰⁰⁷ Diary

23

Q. Just referring --

24

A. Well, have you seen any of my -- did I give you copies of any of my files?

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R. RUBIN

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MR. YESKOO: Okay.

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(Whereupon, at 3:21 p.m., the

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Examination of this Witness was
concluded.)

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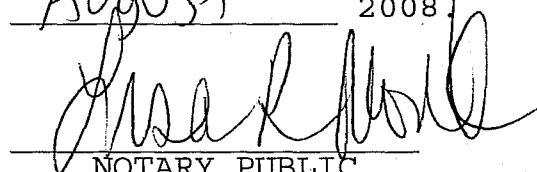
RICHARD H RUBIN

8

9 Subscribed and sworn to

10 before me this 25th day

11 of August 2008



12 LISA R. MONK
13 NOTARY PUBLIC

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LISA R. MONK
NOTARY PUBLIC, State of New York
No. 01MO5027714
Qualified in Nassau County
Commission Expires May 16, 2010

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R. RUBIN

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CERTIFICATION

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4 I, MARTHA TRIKAS, a Notary Public in
5 and for the State of New York do hereby
6 certify:

7 THAT the witness whose examination is
8 hereinbefore set forth, was duly sworn by
9 me; and

10 THAT the within transcript is a true
11 record of the testimony given by said
12 witness.

13 I further certify that I am not
14 related, either by blood or marriage, to any
15 of the parties to this action; and

16 THAT I am in no way interested in the
17 outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand this 25th day of May, 2008.

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Martha Trikas
MARTHA TRIKAS

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